

EXHIBIT

10

DAVID LOPEZ

ATTORNEY AT LAW

171 EDGE OF WOODS ROAD
SOUTHAMPTON, NEW YORK 11968

MAILING ADDRESS:
P.O. BOX 323
SOUTHAMPTON, NEW YORK 11969-0323

TELEPHONE (631) 287-5520
FACSIMILE (631) 283-4735
E-MAIL DAVIDLOPEZESQ@AOL.COM

July 1, 2024

Hon. Denise L. Cote
Judge, U.D. District Court, S.D.N.Y.

**Re: Avalon Holdings Corporation v Guy Gentile et ano., 18-cv-7291 (DCL) (RWL)
New Concept Energy, Inc. v. Guy Gentile et ano., 18-cv-8896 (DCL) (RWL)
Plaintiffs' Request For Pre-Motion Discovery Conference**

Your Honor:

I am one of the plaintiffs' attorneys and I write to request a discovery pre-motion conference. Pursuant to Your Honor's Individual Rule of Practice 2C, I certify that on July 1, 2024, beginning at or about 5:00 P.M. I had a telephonic meeting and conference with Thomas Fleming, Mr. Gentile's attorney of record, during which he denied having authority to act in this case.

My colleague, Miriam Tauber, Esq. served on Mr. Gentile by mailings and by personal service made on Mr. Fleming on or about May 30, 2024, a *subpoena duces tecum* and Deposition Notice. The document requests by plaintiffs allowed more than 30 days for production to allow Mr. Gentile ample time to gather the extensive documents enumerated reflecting his finances. Copies will be provided to the court at or prior to the requested conference as the court may direct.

All document production and Mr. Gentile's appearance for examination were to culminate on July 1, 2024, at 10:00 A.M. in New York City. Neither Mr. Gentile nor his attorney of record attempted to communicate with plaintiffs' counsel prior to that date nor did either of them produce a single requested document. Mr. Gentile failed to appear at the appointed time and place for the taking of his testimony, in person or virtually, both alternatives having been offered.

The motion which the plaintiffs propose to bring is for an order directing Mr. Gentile to comply with plaintiffs' documentary and testimonial requests as a prelude to moving to hold him in contempt of court should he continue to defy proper discovery demands made of him. Mr. Gentile is a judgment debtor for amounts exceeding \$16,000,000 making additional money sanctions alone unlikely to elicit compliance. Accordingly, if and when contempt proceedings are brought, other avenues of persuasion, including carceral ones, will be sought.

Respectfully,

David Lopez

Cc: All Attorneys of Record Via ECF